

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Alexandria Division**

FRANCONIA SQUARE, LLC	)	
	)	
Plaintiff	)	
	)	
v.	)	
	)	
	)	
NOVA PETROLEUM REALTY, LLC	)	
	)	
Defendant.	)	
_____	)	
	)	
NOVA PETROLEUM REALTY, LLC	)	
	)	
Defendant/Counterclaim Plaintiff,	)	
	)	
v.	)	
	)	
FRANCONIA SQUARE, LLC	)	
	)	
Plaintiff/Counterclaim Defendant.	)	
_____	)	

Case Number: 1:12cv1007  
CMH/JFA

**DEFENDANT’S MOTION FOR AN ORDER PERMITTING THE FILING OF  
A SURREBUTTAL TO PLAINTIFF’S REBUTTAL BRIEF**

Defendant NOVA Petroleum Realty, LLC (“NOVA”), by its undersigned attorneys, hereby moves the Court for an order permitting NOVA to file the attached surrebuttal to plaintiff’s rebuttal brief, which was filed on October 17, 2012, Docket No. 20.

Plaintiff filed the above-referenced rebuttal brief as a reply to defendant’s response in opposition to plaintiff’s motion for a preliminary injunction (hereinafter defendant’s “Reply Brief”). Defendant’s Reply Brief was filed on October 1, 2012, Docket No. 15. Under the Rules of this Court, the plaintiff’s rebuttal brief was due to be filed within three days after plaintiff served its Reply Brief. Local Rule 7F(1). Thus, the rebuttal brief was filed late, and it appears to

have been filed without leave of Court, there having been no order entered by the Court permitting the late filing.

Plaintiff's rebuttal brief raises new arguments not presented in its complaint or in its motion for preliminary injunction, and it attaches the Affidavit of Roland Joun, which was not filed with the motion for preliminary injunction. Defendant seeks an opportunity to file a surrebuttal to address these matters which plaintiff (the moving party) brings to the attention of the Court for the first time. If defendant's surrebuttal is permitted to be filed, the Court will have the benefit of the defendant's response to the new arguments before the hearing on the instant motion for preliminary injunction, which is scheduled for October 26, 2012.

The attached surrebuttal consists of three pages.

Respectfully submitted,

\\John M. Luchak\\

John M. Luchak (VSB#38504)

Alphonse M. Alfano (*Pro Hac Vice*)

BASSMAN, MITCHELL & ALFANO, CHTD.

1707 L Street, N.W., Suite 560

Washington, DC 20036

Tel: (202) 466-6502; Fax: (202) 331-7510

Attorneys for Nova Petroleum Realty, LLC